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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,769	03/13/2001	Thomas W. Cardinal	THY002USPT01	2689

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EXAMINER

RESTIFO, JEFFREY J

ART UNIT PAPER NUMBER

3619

DATE MAILED: 01/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/804,769

Applicant(s)

CARDINAL ET AL.

Examiner

Jeffrey J. Restifo

Art Unit

3619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- LM 2. Claims 1-¹⁷~~19~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over McCann(6,253,141).

With respect to claims 1, 6, 8, 11, and 16, McCann discloses a system for braking a vehicle comprising a lateral acceleration sensor 21 for generating a lateral acceleration signal and a microcontroller 2 for comparing said signal to a threshold value, as shown in figure 2. Although McCann does not disclose the controller as disengaging a cruise control system, it is conventional practice in modern cruise control systems to have a brake release for disengaging a cruise control system, as disclosed by the applicant in the specification, page 1, lines 16-18, and therefore, the brake control system, as disclosed by McCann, would inherently cause a cruise control system to disengage if it were to be in use at the time of the braking. It would have been obvious to one having ordinary skill in the art at the same time the invention was made to have given a vehicle a conventional brake release cruise control system with the brake control system, as taught by McCann, in order to give a user the benefits of a cruise control and the brake control system.

With respect to claims 2-5 and 12-15, these vehicles are all intended uses for the system and therefore have been given little patentable weight.

With respect to claims 7, 9, and 10, most conventional accelerometers are mechanical switches with a type of pendulum, and therefore it would have been obvious to one having ordinary skill in the art at the same time the invention was made to have used a conventional pendulum accelerometer in the vehicle safety system, as taught by McCann, in order to accurately measure the lateral acceleration of the vehicle.

With respect to claim 17, the method recited in this claim is inherently performed in the use of the modified vehicle safety system, as taught by McCann, in the rejection of claims 1 and 11.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Williams et al., Sielagoski et al., Horne et al., and Kirchberger et al. all disclose vehicle safety systems of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (703) 305-0579. The examiner can normally be reached on M-F (9:00-5:00), alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2571 for regular communications and (703) 308-2571 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Handwritten signature of Jeffrey J. Restifo in black ink.

JJR
January 27, 2002

Jeffrey J. Restifo
Examiner
Art Unit 3619

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Handwritten signature of Lanna Mai in black ink.